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FACSIMILE TRANSMISSIONS COVERSHEET

DATE: Aug. 26, 2004

ATTENTION:

COMPANY: PTO

FACSIMILE NO.: 703-872-9306

FROM: Brian S. Tomko

TELEPHONE NO.: (732) 524-1239

FACIMILE NO.: (732)-524-5575

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 8

COMMENTS: Re: USSN 10/047,581
Our Ref.: HRT0287

Contents: Petition to Accept an Unintentionally Delayed Claim of Priority

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Docket No. HRT0287

IN THE UNITED STATES PATENT AND TRADEMARK OFFICERECEIVED
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Applicants : John H. Stevens
Serial No. : 10/047,581 Art Unit: 3738
Filed : October 23, 2001 Examiner: D. Isabella
Title : Devices and Methods for Port-Access Multivessel Coronary Artery Bypass Surgery

CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being faxed to the Assistant Commissioner for Patents, Washington, D.C. 20231, on September 20, 2004, to telephone number 703 872-9306.

Signed by
Dated: ~~June 21~~, 2004


Brian S. Tomko

Honorable Commissioner of Patents
Mail Stop Petition
Alexandria, VA 22313

PETITION TO ACCEPT
AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY

Dear Sir:

This is a Petition to correct an unintentionally delayed claim of priority in the above pending application. Applicant's representative received a Office Action dated March 19, 2004, and while preparing to respond to the Office Action, noted an error in the priority claim.

Applicant hereby petitions the Commissioner under 37 C.F.R. §1.78(a)(3) to claim the benefit under 35 U.S.C. § 120 of earlier filed applications in the United States. The claim of priority is as follows:

This application is a continuation of U.S. Patent Application Serial No. 08/615,481 filed on March 25, 1996, now U.S. Patent No. 6,338,735, which is division of U.S. Patent Application Serial No. 08/206,419, filed March 4, 1994, now U.S. Patent No. 5,545,214, which is a division of U.S. Patent Application Serial No. 07/730,559, filed on July 16, 1991, now U.S. Patent No. 5,370,685.

Serial No. 10/047,581

HRT0256

The entire delay between the date the priority claim was due under paragraph §1.78(a)(2)(ii), four months from the actual filing date of this application (i.e., February 23, 2002) and this date was unintentional. When the current application was filed, priority was claimed to the parent application, U.S. Patent Application Serial No. 08/615,481, as indicated in box 18 of the Transmittal Sheet dated October 23, 2001, attached as Appendix A.

Upon receiving a Restriction Requirement dated June 18, 2002, Applicant noted that the priority claim had not been amended to claim priority to the earliest priority date to which the application was entitled. Applicant filed an Election and Amendment dated July 16, 2002, that amended the specification to add the priority claim. A copy of the Election and Amendment is attached as Appendix B. While the amendment appropriately claimed priority (albeit with an error in the filing date of Serial No. 08/206,419), the amendment was made after the four-month period permitted under 37 C.F.R. §1.78(a)(2)(ii).

As stated above, Applicant's representative first became aware of the need to correct the priority statement while preparing to respond to the outstanding Office Action dated March 19, 2004, and promptly filed this Petition.

Applicants attach an Amendment to amend the specification to correct the priority and also submit this Amendment with the Request for Continued Examination filed on this date. Please charge the surcharge set forth in 37 CFR § 1.17(t) of \$1,330.00 to Account 10-0750/HRT-287/BST and any additional surcharge or fee that is required in connection with this petition.

Please feel free to contact me, if any further information is required at (732)524-1239.

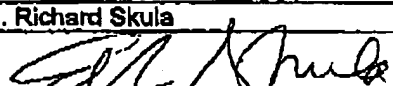
Respectfully submitted,

By: 

Brian S. Tomko
Reg. No. 41,349

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-1239
(732) 524-5575 (fax)
Dated: September 20, 2004

Appendix A-1

Please type a plus sign (+) inside this box +	
UTILITY PATENT APPLICATION TRANSMITTAL	
<small>(only for new nonprovisional applications under 37 CFR 1.63(b))</small>	
Attorney Docket No.	HRT-287
First Inventor	John H. Stevens
Title	Endovascular Aortic Valve Replacement
Express Mail Label No.	EL691443237US
APPLICATION ELEMENTS	
See MPEP Chapter 800 concerning utility patent application contents.	
<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <small>(submit an original and a duplicate for fee processing)</small></p> <p>2. <input type="checkbox"/> Applicant claims small entity status.</p> <p>3. <input checked="" type="checkbox"/> Specification [Total Pages 28] <small>(Preferred arrangement set forth below)</small></p> <ul style="list-style-type: none"> - Descriptive Title of the Invention - Cross Reference to Related Applications - Statement Regarding Fed sponsored R&D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description - Claim(s) - Abstract of the Disclosure <p>4. <input checked="" type="checkbox"/> Drawing(s) (35 USC 113) [Total Sheets 4]</p> <p>5. Oath or Declaration [Total Pages 2] a. <input type="checkbox"/> Newly executed (original or copy) b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) <small>(for continuation/divisional with Box 18 completed)</small> i. <input type="checkbox"/> DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).</p> <p>6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76</p> <p>7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) a. <input type="checkbox"/> Computer Readable Form (CRF) b. <input type="checkbox"/> Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statement verifying identity of above copies</p> <p style="text-align: center;">ACCOMPANYING APPLICATION PARTS</p> <p>9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s)) 10. <input type="checkbox"/> 37 CFR 3.73(b) Statement <input type="checkbox"/> Power of Attorney <small>(when there is an assignee)</small> 11. <input type="checkbox"/> English Translation Document (if applicable) 12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 13. <input type="checkbox"/> Preliminary Amendment 14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <small>(Should be specifically itemized)</small> 15. <input type="checkbox"/> Certified Copy of Priority Document(s) <small>(if foreign priority is claimed)</small> 16. <input type="checkbox"/> Request and Certifications under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent. 17. <input type="checkbox"/> Other</p>	
<p>18. <input checked="" type="checkbox"/> If a CONTINUING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76: <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Divisional <input type="checkbox"/> Continuation-in-Part (CIP) of prior application No.: 08/615481, filed March 15, 1998. Prior application information: Examiner D. Isabella Group Art Unit: 3738 For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.</p> <p style="text-align: center;">19. CORRESPONDENCE ADDRESS</p> <p><input checked="" type="checkbox"/> Customer Number or Bar Code Label 000027777 or <input type="checkbox"/> Correspondence Address below</p> <p>Name: Philip S. Johnson, Esq. Address: Johnson & Johnson One Johnson & Johnson Plaza New Brunswick, NJ 08933-7003 USA</p> <p style="text-align: center;">20. TELEPHONE CONTACT</p> <p>Please direct all telephone calls or telefaxes to E. Richard Skula at: Telephone: (732) 524-2718 Fax: (732) 524-2808</p> <p style="text-align: center;">21. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED</p> <p>NAME: E. Richard Skula Reg. No. 31061</p> <p>SIGNATURE: </p> <p>DATE: October 23, 2001</p>	

EL691443237US

Appendix B-1

Docket No. HRT-0287

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : John H. Stevens
Serial No. : 10/047,581 Art Unit : 3738
Filed : 10/23/2001 Examiner : D. Isabella
Title : Devices and Methods for Port-Access Multivessel Coronary Artery Bypass Surgery

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I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope addressed
to: Commissioner of Patents, Washington, D.C. 20231 on

July 16, 2002

(Date of deposit)

Brian S. Tomko

(Name of applicant, assignee, or Registered Representative)



(Signature)

July 16, 2002

(Date of Signature)

Honorable Commissioner of Patents
Washington, D.C. 20231

ELECTION AND AMENDMENT

Dear Sir:

In response to the Restriction Requirement dated June 18, 2002, Applicants elect the species defined by the Examiner as Invention VI relating to Claims 7-8, without traverse. Applicants reserve the right to file divisional applications to pursue claims for the remaining inventions.

In the specification:

Please amend page 1, line 7 to add the following paragraph as follows:

CROSS REFERENCE TO RELATED APPLICATION

This is a continuation of U.S. Patent Application Serial No. 08/615,481 filed on March 25, 1996, now U.S. Patent No. 6,338,735, which is division of U.S. Patent Application Serial

Appendix B-2

No. 08/206,419, filed on October 18, 2001, now U.S. Patent No. 5,545,214, which is a division of U.S. Patent Application Serial No. 07/730,559, filed on July 16, 1991, now U.S. Patent No. 5,370,685.

REMARKS

Applicants have canceled without prejudice claims 1-6 and 9-14. Remaining claims 7-8 correspond to the Examiner's Group VI contained in the Restriction Requirement.

Attached hereto is a marked-up version of the changes made to the specification by this amendment. The attached page is captioned "Version with markings to show changes made".

Respectfully submitted,

By: 

Brian S. Tomko
Reg. No. 41,349

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-1239
Dated: July 15, 2002

Serial No. 10:347,381

Appendix B-3

VERSION WITH MARKINGS TO SHOW CHANGES MADEIn the Specification:CROSS REFERENCE TO RELATED APPLICATION

This is a continuation of U.S. Patent Application Serial No. 08/615,481 filed on March 25, 1996, now U.S. Patent No. 6,338,735, which is division of U.S. Patent Application Serial No. 08/206,419, filed on October 18, 2001, now U.S. Patent No. 5,545,214, which is a division of U.S. Patent Application Serial No. 07/730,559, filed on July 16, 1991, now U.S. Patent No. 5,370,685.

Appendix B-4

SERIAL NO. 10/D47,581 DOCKET NO. HRT-0287 BY BST
APPLICATION OF John H. Stevens MAILED: 7/16/02
ENTITLED Devices and Methods for Port Access Multivessel Coronary
Artery Bypass Surgery
THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT OFFICE ON THE DATE STAMPED HEREON:

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| <input type="checkbox"/> AFFIDAVIT | <input type="checkbox"/> DECLARATION | <input type="checkbox"/> EXTENSION OF TIME |
| <input checked="" type="checkbox"/> AMENDMENT / Election | | <input type="checkbox"/> NOTICE OF APPEAL |
| <input type="checkbox"/> ASSIGNMENT FOR RECORDING OATH OR | | <input type="checkbox"/> DECLARATION |
| <input type="checkbox"/> BRIEF | | <input checked="" type="checkbox"/> POWER OF ATTORNEY- Assoc. |
| <input checked="" type="checkbox"/> CHARGE TO DEPOSIT ACCOUNT 10-0750 | | <input type="checkbox"/> PRELIMINARY STATEMENT |
| <input type="checkbox"/> DRAWINGS | | <input type="checkbox"/> PRIORITY DOCUMENT |
| <input type="checkbox"/> ISSUE FEE TRANSMITTAL | | <input type="checkbox"/> STATUS INQUIRY |
| <input type="checkbox"/> LETTER | | <input type="checkbox"/> SPECIFICATION _____ PGS. |
| <input type="checkbox"/> PCT FILING | | <input type="checkbox"/> CLAIMS _____ |
| <input type="checkbox"/> IDS - FORM - 1449 | | <input type="checkbox"/> _____ |